

United States Government

Department of Energy

memorandum

DATE: December 8, 2003

REPLY TO:
ATTN OF: Office of Air, Water and Radiation Protection Policy and Guidance (EH-41):Boulos:6-1306

SUBJECT: Information - Amended Rule on Refrigerant Recycling Regulations Under Section 608 of the Clean Air Act

TO: Distribution

The purpose of this memorandum is to inform Department of Energy (DOE) program offices and field organizations of the Environmental Protection Agency's (EPA) final rule, "Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608 of the Clean Air Act." The final rule (68 FR 43786; July 24, 2003) is available at the EH-41 Home Page at:

<http://www.eh.doe.gov/oepa/rules/68/68fr43786.pdf>

Attached is a summary of the final rule to make the Departmental complex aware of information that may be of relevance to its operations. If you have any questions concerning the regulations, please contact Mr. Emile Boulos of my staff at: emile.boulos@eh.doe.gov; 202-586-1306.



Andrew Wallo
Director
Office of Air, Water and Radiation
Protection Policy and Guidance

Attachment

SUMMARY

SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608 OF THE CLEAN AIR ACT

Overview

The U.S. Environmental Protection Agency (EPA) issued a final rule on July 24, 2003, that amended the Refrigerant Recycling Regulations under the Clean Air Act (CAA) (68 FR 43786). This rule became effective September 22, 2003, except for certification of refrigerant recycling only equipment for which this became effective October 22, 2003.

The action in this supplemental rule includes the amendments to the Refrigerant Recycling Regulations promulgated under Section 608 of the CAA Amendments of 1990 (58 FR 28660; May 14, 1993). The February 29, 1996, proposed rule regarding a recycling standard under Section 608 of the CAA (61 FR 68508) is finalized (in portions) in this amendment. Section 608 of the CAA (1990) prohibits individuals from knowingly venting ozone depleting compounds, used as refrigerants, into the atmosphere while maintaining, servicing, repairing, or disposing of air conditioning or refrigeration equipment. The amendment points out the EPA's intent to maintain consideration of other aspects of the proposal that are not addressed in this final rule.

The Department of Energy (DOE) is affected by the regulations in three ways: DOE and its organizations 1) are owners and operators of air-conditioning and refrigeration equipment, 2) are refrigerant recovery/recycling equipment testing organizations, and 3) hire or contract technicians who may require certification.¹

The following text summarizes specific aspects of the amended rule. Table 1 on page 3 is a summary comparison of the original rule to the amended rule in those areas that are of potential interest to DOE.

Summary of the Amended Rule in Areas of Potential Interest to DOE

This section summarizes the parts of the amended rule that may pertain to DOE. Items that are covered include refrigerant transfers, new standards, organizations that do not offer the Section 608 certification exam for technicians, distribution of refrigerants, and "grandfathered" equipment.

- In 40 CFR 82.154(g)(5), the EPA included a new exemption in the amended rule that allows the transfer of refrigerant between facilities owned by the same Federal agency without the need to have the refrigerant reclaimed. "This exemption will hold as long as the facilities involved in the transfer of used refrigerants are owned by the same Federal agency or department. The facilities need not be operated by employees of the Federal facility or department, as long as such facilities are ultimately under the control of the same Federal agency or department."² In a September 30, 2004, letter from the EPA's Stratospheric Ozone Protection Division that responded to an EH-41 (Office of Air, Water and Radiation Protection Policy and Guidance) letter asking whether phased-out refrigerant from a DOE site to be

¹ Federal Register/ 68 FR 43786/ Thursday, July 24, 2003

² 68 FR 43794 mentions that the exemption is made in Section 82.154(h)(4). However, Section h is removed and reserved in the document. This exemption is also made in Section 82.154 (g)(5). EPA has combined g and h.

transferred to the Department of Defense (DoD)³ must be reclaimed, in light of §82.154(g)(5), the EPA stated that the DOE site transferring the refrigerant did not have to reclaim it.

- The EPA has adopted in 40 CFR Part 82, Subpart F (“Recycling and Emissions Reduction”) the updated versions of the following industry standards: Air-Conditioning and Refrigeration Institute (ARI) Standard 700-1995 (which is the ARI standard for specifications for refrigerants) and ARI Standard 740-1995 (which is the ARI standard for refrigeration recycling and recovery equipment). However, the EPA did not adopt the ARI Standard 700-1995 requirements for refrigerant blends, but will address this in a future rulemaking.
- Certain existing refrigerant recycling and recovery equipment has been “grandfathered” by maintaining the reference to the 1993 ARI standard as it applies to equipment previously certified to the ARI Standard 740-1993. This grandfathered equipment includes (1) equipment manufactured on or after November 15, 1993, but before September 22, 2003, that was certified to ARI Standard 740-1993 by an EPA-approved equipment testing organization and (2) equipment manufactured before November 15, 1993, that meets the applicable performance standards as set forth at §82.158(c). Equipment manufactured on or after September 22, 2003, must be certified to the new standard set forth at §82.158(b)(2) and appendix B2 (based upon ARI Standard 740-1995).
- Organizations that no longer offer the Section 608 technician certification exam must notify the EPA of their intention to cease operation. These organizations must transfer their records to an approved organization and notify the EPA about the transfer. Furthermore, the EPA must receive an activity report every six months from all approved certifying programs.
- The EPA has restricted the sale or distribution of class I and class II refrigerants for use in Motor Vehicle Air Conditioners (MVACs) to certified technicians. Only technicians certified under Section 609 can purchase such ozone-depleting refrigerants in containers containing less than 20 pounds of refrigerant. (§82.154 (m))

Pertinent Amendments to Definitions

The amended definitions as well as a description for “Major maintenance, service, or repair” and “small appliance” are listed below.

- **Major maintenance, service, or repair:** “Any maintenance, service, or repair that involves the removal of any or all of the following appliance components: compressor, condenser, evaporator, or auxiliary heat exchange coil; or any maintenance, service, or repair that involves uncovering *an opening of more than four square inches of ‘flow area’ for more than 15 minutes.*”
 - The EPA is using the 15 minute maximum time to differentiate between major and non-major activities, but is not using this definition to define “non-major” or establish a time limit. (§82.156(a))

³ Section 505(c) of Executive Order 13148, “Greening the Government Through Leadership in Environmental Management” requires Federal agencies phasing out their class I ozone-depleting substances to coordinate disposition of these chemicals with DoD, because DoD may require certain ozone-depleting chemicals for their critical missions.

- **Small appliance:** “Any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers...or industrial research refrigeration equipment, room air conditioners..., dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.” (§82.152)
 - This amendment was made to clarify that the list of small appliances used in the definition is only illustrative.⁴ Other equipment with five pounds or less of charge would also be considered to be a “small appliance.”

⁴ *Federal Register/Vol.68, No.142/ Thursday, July 24, 2003/ 43803*

Table 1. Comparison of the Original Versus Amended Rule in Areas of Potential Interest to DOE

Original Refrigerant Recycling Rule, 58 FR 28660 (May 14, 1993)	Amended Refrigerant Recycling Rule, 68 FR 43786 (July 24, 2003)	Location in Amendment
Transfer of refrigerants between different Federal facilities owned by the same Federal agency was not addressed.	Allowance for the transfer of refrigerant between facilities owned by the same Federal agency	68 FR 43807 §82.154(g)(5)
Adoption of ARI Standard 700-1988 for refrigerant specifications and ARI Standard 740-1993 for recycling and recovery equipment	Adoption of updated ARI Standard 700-1995, and ARI Standard 740-1995	68 FR 43808 §82.158 (b), 82.160
Process for transferring records for programs exiting the Section 608 technician certification business was not addressed.	Organizations that no longer offer Section 608 technician certification exams must transfer records to an organization that is offering the certification exam.	Preamble 68 FR 43792 (last paragraph)
Regulation of the sale of refrigerants under the sales restriction was not clear.	Restriction of sales/distribution of class I and class II refrigerants for use in MVACs	68 FR 43807 §82.154
“Grandfathering” existing recycling and recovery equipment was not an issue because it was certified using the older standards.	The “grandfathering” of certain existing equipment and certification of equipment manufactured on or after November 15, 1993 and before September 22, 2003 ⁵	68 FR 43799; § 82.158
Did not differentiate between major and non-major repair activities; did not establish whether or not an exemption to the evacuation-required practice was allowed under §82.156(a).	Defined “major maintenance, service, or repair”	68 FR 43806 §82.152
Identified particular types of small appliances (such as room air conditioners, dehumidifiers) in the definition of “small appliances.”	Clarified that the list of small appliances used in the definition is illustrative rather than restrictive.	68 FR 43806 §82.152

⁵ Since equipment manufacturers will be required to certify to the 1995 version of the ARI standard 60 days after this final rule, to ease the financial burden on manufacturers, the EPA decided to “grandfather” the existing equipment.